

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 0032.0007WO1	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2005/034606	International filing date (<i>day/month/year</i>) 29 September 2005 (29.09.2005)	Priority date (<i>day/month/year</i>) 29 September 2004 (29.09.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant REJUVEDENT, LLC		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 <i>bis</i> .1(a).																								
2.	This REPORT consists of a total of 5 sheets, including this cover sheet. In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 80%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Date of issuance of this report 03 April 2007 (03.04.2007)</td> </tr> <tr> <td style="padding: 5px;">Authorized officer <div style="text-align: center; font-weight: bold;">Beate Giffo-Schmitt</div></td> </tr> <tr> <td style="padding: 5px;">e-mail: pt03.pct@wipo.int</td> </tr> </table>	Date of issuance of this report 03 April 2007 (03.04.2007)	Authorized officer <div style="text-align: center; font-weight: bold;">Beate Giffo-Schmitt</div>	e-mail: pt03.pct@wipo.int
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e-mail: pt03.pct@wipo.int				

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
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HOUSTON ELISEEVA LLP
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LEXINGTON, MA 02421

PCT

REC'D 3.1 MAR 2006
WIPO PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (day/month/year) 29 MAR 2006		
Applicant's or agent's file reference 0032.0007WO1		
FOR FURTHER ACTION See paragraph 2 below		
International application No. PCT/US05/34606	International filing date (day/month/year) 29 September 2005 (29.09.2005)	Priority date (day/month/year) 29 September 2004 (29.09.2004)
International Patent Classification (IPC) or both national classification and IPC IPC: Please See Continuation Sheet USPC: 433/32,89,49,52,53,54,214,215,216,90		
Applicant NGA, INC.		

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Date of completion of this opinion 16 March 2006 (16.03.2006)	Authorized officer Kevin Shaver <i>Sharon D. Green</i> Telephone No. (571) 272-4714
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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US05/34606

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US05/34606

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>Please See Continuation Sheet</u>	YES
	Claims <u>Please See Continuation Sheet</u>	NO
Inventive step (IS)	Claims <u>Please See Continuation Sheet</u>	YES
	Claims <u>Please See Continuation Sheet</u>	NO
Industrial applicability (IA)	Claims <u>Please See Continuation Sheet</u>	YES
	Claims <u>Please See Continuation Sheet</u>	NO

2. Citations and explanations:

Claims 1-4,9-11,16,21-22,26-28,30,32-34,38-39,41-42,49-51,53-55,68-74,86,88,98,100,114,115, and 117-118 lack novelty under PCT Article 33(2) as being anticipated by Jensen et al (USPN 6,309,625). Jensen et al disclose a method for tooth rejuvenation comprising applying to a tooth a layer of a composition comprising an aqueous solution of one or more edible acids, wherein the composition has a pH selected from a range of about 0.5 to 5 and wherein the composition does not contain peroxide. Specifically Jensen et al disclose, "the present invention relates to compositions and methods for whitening and desensitizing teeth. The present invention relates to compositions that may be applied directly to a person's teeth for shorter periods of time" (column 1, lines 7-10).

Claims 43,49-50,52,56-61,104-107,110, and 113 lack novelty under PCT Article 33(2) as being anticipated by Friedman (US 2002/0058231 A). Friedman discloses an apparatus for rejuvenating hard tissue comprising a housing with a capsule comprising an aqueous edible composition; a heating element for heating the acid composition; a temperature sensor; a control system; a power supply; and an applicator as described in paragraphs [0006]-[0012].

Claim 40 lacks an inventive step under PCT Article 33(3) as being obvious over Jensen et al in view of Friedman. Jensen et al disclose the invention as claimed but fails to disclose or reasonably suggest a heating element serving to raise a temperature of the composition to a desired temperature. This is taught by Friedman in paragraph [0010]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the heating unit as taught by Friedman into the applicator disclosed by Jensen et al in order to provide a means for heating the composition prior to application.

Claims 5-8,12-15,17-20,23-25,29,31,35-36,44-48,62-67,75-85,87,89,90-97,99,101-103,108-109,111-112, and 116 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a method for tooth rejuvenation comprising applying to a tooth surface a layer of composition comprising an aqueous solution of one or more edible acids, wherein the composition has a pH selected from a range of about 0.5 to 5; heating the composition to a temperature no higher than 60 degrees Celsius and; removing the composition from the tooth surface. The prior art also does not disclose a method of impregnating the porous layer of hard tissue with particles having a fluidity temperature higher than a melting temperature of a hard tissue of the porous layer; and selectively heating the porous layer to a temperature higher than the melting temperature of the hard tissue.

Claims 1-118 meet the criteria set out in PCT Article 33(4), and thus a method of rejuvenating a tooth structure of hard tissue has industrial applicability because the subject matter claimed can be made or used in industry.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US05/34606

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of IPC:

A61C 5/04(2006.01),19/00(2006.01),9/00(2006.01),1/14(2006.01),11/00(2006.01),5/00(2006.01),5/04(2006.01)

V.1. Reasoned Statements:

The opinion as to Novelty was positive (Yes) with respect to claims 5-8, 12-15, 17-20, 23-25, 29, 31, 35, 36, 40, 44-48, 62-67, 75-85, 87, 89-97, 99, 101-103, 108, 109, 111, 112, AND 116

The opinion as to Novelty was negative (No) with respect to claims 1-4, 9-11, 16, 21, 22, 26-28, 30, 32-34, 387, 39, 41, 42, 43, 49-55, 56-61, 68-74, 86, 88, 98, 100, 104-107, 110, 113-115, 117 AND 118

The opinion as to Inventive Step was positive (Yes) with respect to claims 5-8, 12-15, 17-20, 23-25, 29, 31, 35, 36, 40, 44-48, 62-67, 75-85, 87, 89, 90-97, 99, 101-103, 108-109, 111, 112 AND 116

The opinion as to Inventive Step was negative (NO) with respect to claims 1-4, 9-11, 16, 21, 22, 26-28, 30, 32-34, 38, 39, 41-43, 49-61, 68-74, 86, 88, 98, 100, 104-107, 110, 113-115, 117 AND 118

The opinion as to Industrial Applicability was positive (YES) with respect to claims 1-118

The opinion as to Industrial Applicability was negative (NO) with respect to claims NONE